

ORIGINAL

Dee May  
Executive Director  
Federal Regulatory



1300 I Street N.W., Floor 400W  
Washington, DC 20005

Phone 202.336.7824  
Fax 202.336.7922  
dolores.a.may@verizon.com

EX PARTE OR LATE FILED

December 6, 2000

RECEIVED

Ex Parte

DEC - 6 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> St., S.W. – Portals  
Washington, DC 20554

EX PARTE OR LATE FILED

RE: Application by Verizon New England Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Massachusetts, Docket No. 00-176

RE: Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68

Dear Ms. Salas:

Yesterday, W.P. Barr, T. Tauke, M. Glover and E. Young of Verizon met with Commissioner Powell and K. Dixon to discuss the enclosed materials regarding DSL. The issue of reciprocal compensation was also discussed in which Verizon urged the Commission: 1) not to supplant existing state decisions that have already moved to a "bill and keep" regime or imposed traffic ratio caps lower than the FCC transition plan; and 2) make any federal transition plan to "bill and keep" mandatory.

Please let me know if you have any questions. The twenty-page limit does not apply as set forth in DA 00-2159.

Sincerely,

cc: K. Dixon  
E. Einhorn  
S. Pie

No. of Copies rec'd  
List ABOVE

04

INDEX TO DSL EVIDENCE		
<i>What VZ demonstrated to the DTE</i>	<i>What the DTE found</i>	<i>What VZ demonstrated to the FCC</i>
<b>A. Installation Timeliness</b>		
<b>1. Verizon demonstrated that it is providing xDSL loops to CLECs on time.</b>		
<p>Verizon demonstrated that, in first quarter 2000, its on-time performance for xDSL loops reached 96 percent for completed orders (i.e., excluding no-access and no-facilities situations) using data that was collected following the same parameters as are used in the Performance Assurance Plan (PAP). App. B, Tab 423, at Checklist Aff. ¶ 103.</p> <p>Verizon demonstrated that, from March through June 2000, its on-time performance exceeded 96 percent for completed orders using data that was collected following the same parameters as are used in the PAP. App. B, Tab 494, at Checklist Aff. ¶ 96.</p> <p>Verizon demonstrated that this strong on-time performance continued in July 2000. App. B, Tab 552.</p>	<p>"VZ-MA is performing as a wholesale provider should. It gives CLEC customers the service they request." DTE Eval. at 306.</p> <p>"The more experience VZ-MA gains, the better its performance becomes." DTE Eval. at 305.</p> <p>"[Verizon's] provisioning intervals, for both its retail ADSL service and the service it provides to CLECs, are decreasing, as are the percentage of missed installation appointments." DTE Eval. at 305.</p> <p>"We affirm our findings contained in our Evaluation: VZ-MA provisions xDSL loops to CLECs when CLECs request them." DTE Reply at 74.</p>	<p>Verizon demonstrated in its application that, during June and July, its on-time performance for DSL loops met or exceeded 95 percent in each of the separate reporting categories included in the PAP. Application at 18; L/R ¶ 96; G/C Att. M.</p> <p>Verizon submitted C2C reports demonstrating that, from May through July, Verizon met between 96 and 97 percent of its appointments for all xDSL loop orders. G/C Att. E.</p> <p>Verizon again pointed to this strong on-time performance in its Reply Comments. Reply Comments at 6; L/R Reply ¶ 57.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that it provides CLECs with the due dates they request. Verizon conducted a study of approximately 3,000 June orders for two-wire digital and DSL loops and found that almost all of these orders received the date that was requested or that is set forth in the C2C guidelines. App. B, Tab 520, at 2527-2528 (old numbering); App. B, Tab 565, at 5632 (old numbering).</p>	<p>"CLECs receive their requested xDSL provisioning interval approximately 99 percent of the time." DTE Eval. at 306.</p>	<p>Verizon demonstrated in its application that, in June 2000, the average interval offered for pre-qualified wholesale xDSL orders was at parity with retail. It also demonstrated that, in July, there was less than one-third of a day difference, which is smaller than the half-day difference the Commission found was not competitively significant in New York. Verizon further demonstrated that the average intervals offered for loops that required qualification in June and July were well within the 9-day interval for such loops. G/C ¶¶ 79, 81 &amp; Att. K.</p>

		Verizon also filed in its application all the evidence that was included in the state record.
<p>Verizon provided CLEC-specific data to verify its on-time performance:</p> <p>∃ Verizon submitted evidence of a DTE-supervised data reconciliation of Covad's orders from February 7-11, 2000, which found that Verizon timely completed 92 percent of Covad orders once orders that Covad incorrectly ascribed as Verizon misses were properly excluded. App. B, Tab 423, at Checklist Aft. ¶ 207.</p> <p>∃ Verizon also demonstrated that its on-time performance for Covad's xDSL loops improved every month from October 1999 to March 2000 under the measurements used in the C2C performance reports. App. B, Tab 423, at Checklist Aft. ¶ 207.</p> <p>∃ In response to a DTE Information Request, Verizon provided CLEC-specific data for missed appointment measurement from October 1999 to February 2000 for UNE Complex Services. App. B, Tab 443 (response to Information Request DTE 5-13) (proprietary).</p>	<p>∃ "Earlier this year, the Department oversaw a data reconciliation between VZ-MA and Covad for 132 of Covad's orders completed between February 7-11, 2000. The carriers agreed that 116 of the orders were completed on time. In addition, through this reconciliation, it was determined that six orders scored as 'misses' should have been counted as 'met,' increasing VZ-MA's on-time performance to 92 percent." DTE Eval. at 308-309.</p> <p>∃ "[W]e do not consider Covad's data to demonstrate poor provisioning performance." DTE Eval. at 308.</p> <p>∃ "Until we read Covad's FCC comments, we were unaware that this lack of CLEC-specific data posed a hindrance to Covad because Covad never raised this issue during our proceeding. Indeed, the only requests made to VZ-MA for CLEC-specific non-hot cut loops during this year's § 271 proceeding came from the Department; and we heard nothing about the matter from Covad until its October 16 comments." DTE Reply at 70 &amp; n.231.</p> <p>"Neither Covad nor Rhythms mentioned any VZ-MA refusal to provide CLEC-specific data in our § 271 proceeding (or in any other Department proceeding)." DTE Reply at 75.</p>	<p>Verizon filed in its application all the evidence that was included in the state record.</p>

<p>∃ Verizon demonstrated that, from October 1999 through March 2000, it met 94.2 percent of its installation appointments for Vitts, and that in March Verizon met nearly 98 percent of its appointments for Vitts. App. B, Tab 423, at Checklist Aff. ¶ 210.</p> <p>∃ Verizon demonstrated that, in March 2000, its on-time performance for Rhythms increased to more than 95 percent despite a big increase in order volume. App. B, Tab 432, at Checklist Aff. ¶ 211.</p>	<p>∃ "Vitts has not contested VZ-MA's performance this year." DTE Eval. at 301.</p> <p>∃ "VZ-MA reviewed Rhythms' claims and noted that its C2C Guidelines data for Rhythms indicate that its percentage of missed appointments dropped from over 21 percent in October, 1999, to 4.73 percent in March, despite a tenfold increase in Rhythms' orders." DTE implies that Rhythms dropped these claims, noting that "Covad is the only carrier that continues to make specific claims about VZ-MA's provisioning performance." DTE Eval. at 302.</p>	
<p><b>2. Verizon demonstrated that it is providing loops in a non-discriminatory manner.</b></p>		
<p>Verizon demonstrated that it is completing pre-qualified xDSL loops at least as quickly as retail orders, even though unbundled loop orders are more complicated to provision:</p> <p>∃ Under the measurements used in the C2C performance reports, Verizon demonstrated that, in second quarter 2000, the average interval offered and average interval completed for xDSL loops was roughly the same for wholesale and retail. App. B, Tab 537.</p>	<p>∃ "VZ-MA's performance data indicate that it generally provisions xDSL loops for CLECs in approximately the same amount of time that it provisions xDSL loops for its own retail service." DTE Eval. at 298.</p> <p>Verizon's "provisioning intervals, for both its retail ADSL service and the service it provides to CLECs, are decreasing." DTE Eval. at 305.</p> <p>"We affirm our findings contained in our Evaluation: VZ-MA provisions xDSL loops to CLECs when CLECs request them." DTE Reply at</p>	<p>Verizon demonstrated that, from May through July 2000, the weighted average interval completed for itself and CLECs was at parity. In addition, Verizon submitted evidence in its Application of a study of randomly selected DSL orders from June and July that updated and expanded upon a study in the state proceeding and demonstrated that, for pre-qualified loops, the average offered and completed intervals for wholesale and retail were at parity. Verizon further noted that, because unbundled DSL loops are much more difficult to install than retail DSL service, the fact that performance is comparable for the two services means that CLECs actually receive service that is superior to what Verizon provides itself. Application at 24; G/C ¶ 79-80 &amp; Att. K; L/R ¶ 100-101.</p> <p>Verizon again pointed to this performance in its Reply Comments. Reply Comments at 9-10; L/R</p>

<p>3 Verizon conducted a study of 144 randomly selected xDSL-loop orders from January and February 2000. The study found that the average completed interval for these loops was 7.6 days. App. B, Tab 423, at Measurements Aff. ¶ 70. (In January and February 2000, DSL was not separately backed out from other complex services in the C2C reports; Verizon's own average intervals for complex services in January and February were 7.58 days and 8.34 days, respectively. App. B, Tab 424.) In response to a DTE request, Verizon provided supporting documentation for its interval study. App. B, Tab 443 (response to Information Request DTE 5-30).</p>	<p>74.</p> <p>3 "In response to DOJ's concern that we may have relied upon a VZ-MA study of POTS lines to support our finding that VZ-MA provisions XdsL loops to CLECs when they request them, we note that in its May measurements affidavit, VZ-MA discussed a study of randomly selected xDSL orders from January and February 2000. The Department requested and received the supporting documentation for this study, which indicates that for xDSL orders requiring a dispatch, CLECs miscoded approximately 30 percent of the orders. CLECs request longer than the stated interval but neglected to code those orders with an 'X' instead of a 'W.' The Department expects this clarification, which we neglected to make explicit in our Evaluation, will resolve any of the DOJ's concerns about any inappropriate reliance on VZ-MA's POTS studies." DTE Reply at 75-76.</p>	<p>Reply ¶ 58.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that interval measures – such as orders completed within 6 days (PR-3-10) – do not accurately measure Verizon's performance. First, Verizon, noted that the correct interval for CLEC orders that are not prequalified – which make up the bulk of all CLEC DSL loop orders – is nine days, not six. App. B, Tab 565 at 5632 (old numbering). Second, Verizon demonstrated that CLECs often request a longer interval than 6 days, but that CLECs often do not code their orders properly so that interval measures such as PR-3-10 do not capture this fact. App. B, Tab 423, at Measurements Aff. ¶ 70; App. B, Tab 494, at Measurements Aff. ¶ 19. Verizon demonstrated that this coding problem is confirmed by the fact that CLECs are given the intervals they request. App. B, Tab 520, at 2527-2528 (old numbering); App. B, Tab 565, at 5632 (old numbering).</p>	<p>"VZ-MA has testified before the Department that its retail representatives do not use manual loop qualifications or engineering queries, which will add additional time to the process. . . . It is only logical that this added step would increase provisioning intervals for CLECs, thus making it appear that VZ-MA's performance for CLECs is out of parity, when in fact it is not out of parity." DTE Eval. at 306.</p> <p>"VZ-MA has explained persuasively how including loops that are pre-qualified and loops that require manual loop qualification in the measure creates a mis-impression of a lack of parity." DTE Eval. at 307.</p>	<p>Verizon demonstrated in its application that loops that have not been prequalified are included in the data that go into the percent completed in 6 days measure (PR-3-10), and that as a result the reported results incorrectly appear as though Verizon is providing better service to itself than to CLECs. Application at 24; L/R ¶¶ 100-101; G/C ¶¶ 78-81.</p> <p>In response to complaints about Verizon's provisioning performance and attempts to rely predominately on PR-3-10, Verizon reiterated in its reply comments that PR-3-10 does not reflect Verizon's performance, and is skewed, <i>inter alia</i>, by the fact that many CLEC loop orders have not been prequalified. Reply Comments at 8; L/R Reply ¶¶ 61-65; G/C Reply ¶ 10. Drs. Gertner and Bamberger confirmed that the reported results are skewed by CLEC behavior, and that one simple fact</p>

		<p>accounts for about 50 percent of the apparent difference in the percentage of Verizon and CLEC orders completed within 6 days. G/B Reply ¶¶ 21, 23, 24.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<b>3. Verizon demonstrated that there was no backlog of orders.</b>		
<p>Verizon testified (and provided supporting proprietary data, DTE No. 3) that VZ reviewed nearly 100 percent of Covad's so-called backlog orders and found that 22 percent had been completed and Covad had given Verizon a serial number; 7 percent had been canceled; 28 percent had been queried back to Covad for errors (they didn't even appear to be MA PONs); and 31 percent came in and are due since the strike. This left less than 1 percent on the backlog. App. B, Tab 520, at 2522 (old numbering).</p>	<p>"Covad acknowledges that it did, indeed, include 'no facilities available' in the category of a VZ-MA caused canceled order, constituting 32.4 percent of the total. Covad also admitted that it erroneously included orders that were canceled because a duplicate order was issued (6.5 percent of the total). Moreover, Covad indicates that eleven percent of the total is attributable to canceled orders due to long loops; eight percent due to trenching; two percent is due to the presence of digital loop carrier; and one percent of the total orders that were canceled is attributable to electronics on the line." DTE Eval. at 302-303.</p>	<p>As described above, Verizon demonstrated in its application that it completes more than 95 percent of DSL loop orders on time. Application at 18; L/R ¶ 96; G/C Att. M; G/C Att. E at 10, 24, 38.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<b>B. Loop Quality</b>		
<b>1. Verizon demonstrated that it provides quality loops to CLECs.</b>		
<p>Verizon demonstrated that the overall network trouble report rate for CLECs was very low. App. B, Tab 565, at 5633 (old numbering). Verizon submitted C2C reports demonstrating that this was the case throughout second quarter of 2000. App. B, Tab 537.</p>	<p>"[W]e find that VZ-MA provides nondiscriminatory access to loop installation for xDSL loops." DTE Eval. at 314.</p>	<p>Verizon demonstrated in its application that it was providing loops at a level of quality sufficient to permit competitors a meaningful opportunity to compete. It submitted evidence that, from May through July 2000, the overall network trouble report rate for CLECs was very low under the measurements used in the C2C performance reports. G/C Att. E.</p> <p>Verizon also filed in its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that the low network trouble report rate is confirmed by the high incidence of</p>	<p>"According to VZ-MA, a majority, almost 60 percent, of the troubles were closed to NTF codes.</p>	<p>Verizon demonstrated in its application that, in July, more than 80 percent of CLEC repair requests</p>

<p>trouble reports that are closed with No Trouble Found:</p> <p>Verizon submitted data that, from January to March 2000, approximately 50 percent of all CLEC reported troubles were closed with No Trouble Found. App. B, Tab 423, at Checklist Aff. ¶ 253.</p> <p>Verizon submitted data that, in July 2000, the majority (59 percent) of the troubles on DSL loop troubles were closed with No Trouble Found. DTE Eval. Att. F (Response to DTE RR-323); App. B, Tab 494, at Checklist Aff. ¶ 145.</p> <p>Verizon submitted CLEC-specific data demonstrating that, from April to June 2000, the majority of trouble reports submitted by virtually all individual CLECs were closed with No Trouble Found. App. B, Tab 550 (Response to DTE RR 324) (proprietary).</p>	<p>... It appears from our record that no CLEC is disputing VZ-MA's explanation of the disparity [between wholesale and retail] in numbers of trouble tickets issued (i.e., CLECs accept loops and file trouble tickets immediately thereafter)." DTE Eval. at 311-312.</p>	<p>that were submitted on DSL loops were traced to either problems that should have been revealed during acceptance testing, or were closed with no trouble found. Application at 25-26; L/R ¶¶ 104-105.</p> <p>Verizon again noted this in its Reply Comments. Reply Comments at 12.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that 56 percent of the installation troubles submitted by Covad between April 15 and June 15, 2000, resulted in no trouble found. Combined with the fact that Covad submits trouble reports for only a small fraction of its loops, the fact that most of these trouble reports result in no trouble found demonstrates that an even smaller fraction of its loops have actual troubles of any kind. App. B, Tab 494, Checklist Aff. at ¶ 144.</p>	<p>"Covad is incorrect when it states that 'at least 44% of the loops [VZ-MA] delivered to Covad were non-functioning loops.' ... According to VZ-MA, Covad reported installation troubles within 30 days of an installation (captured by PR-601) during April through June 2000, for [a small, single digit percent] of its completed installations. The figure of 'at least' 44 percent of loops with a found 'trouble' cited by Covad does not represent 44 percent of <u>all</u> loops provisioned to Covad but, rather [a small, single digit percent] of all loops VZ-MA provisioned to Covad during this three month period. This figure is a far cry from 44 percent of the loops delivered by VZ-MA to Covad." DTE Reply at 80.</p> <p>"In its comments to the FCC, Covad dramatically overstates the number of its loops that experience troubles within 30 days of provisioning. The</p>	<p>Verizon demonstrated in its application that, in the case of one major CLEC, 56 percent of repair requests from April 15 to June 15, 2000, were resolved with no trouble found, and 90 percent of the remainder were outside facilities issues that a properly performed acceptance test by the CLEC would have disclosed. Application at 26; L/R ¶ 105.</p> <p>In response to Covad's claim that Verizon's statement constituted an admission that 44 percent of the loops provided to Covad did not work, Verizon noted that its earlier statement that 56 percent of the trouble reports submitted by Covad were closed with no trouble found has no bearing on the percentage of total loops with trouble reports. Verizon demonstrated that, in fact, Covad submits trouble reports for only a small fraction of its loops, and that most of these trouble reports</p>

	accurate number, provided above, is a fraction of the 44 percent it claims and is not indicative of discriminatory behavior by VZ-MA." DTE Reply at 82-83.	result in no trouble found, which shows that an even smaller fraction of Covad's loops (in the low single digits) have actual troubles of any kind. Reply Comments at 12 n.11; L/R Reply ¶ 67.  Verizon also filed with its application all the evidence that was included in the state record.
<b>2. Verizon demonstrated that the "trouble report within 30 days" results that are reported do not accurately measure Verizon's performance, but instead reflect CLEC behavior (such as accepting loops that are not suitable for the service they want and filing trouble reports).</b>		
Verizon demonstrated that, in July 2000, more than 75 percent of the 594 loops on which CLECs had reported troubles within 30 days were loops that CLECs had certified as working during joint acceptance testing. App. B, Tab 565, at 5634 (old numbering); DTE Eval. App. F (Response to DTE RR-323).  This is consistent with the evidence described above that the majority of CLEC trouble reports resulted in no trouble found.	"VZ-MA reviewed xDSL loop troubles reported in the month of July, which amounted to almost 600 loop troubles. . . . VZ-MA states that the vast majority (one third of the total troubles reported) were closed to cable conditions despite the fact that over 75 percent of these loops had recent acceptance testing (with the serial number provided) by the CLEC. VZ-MA argues its analysis supports its conclusion that CLECs are accepting loops that they should not be accepting. It appears from our record that no CLEC is disputing VZ-MA's explanation of the disparity in numbers of trouble tickets issued (i.e., CLECs accept loops and file trouble tickets immediately thereafter). DTE Eval at 312.	Verizon demonstrated in its application that CLECs are submitting trouble reports on many loops that they certified as working during acceptance testing. Verizon repeated the results of its study in the state proceeding that, of 594 CLEC trouble reports in July, more than 75 percent had recent acceptance testing and corresponding serial numbers provided by the CLEC. Application at 25-26; L/R ¶ 104 & Att. L.  In response to comments relying predominately on measures such as trouble reports within 30 days, Verizon again pointed out that the vast majority of trouble reports submitted by CLECs in July were closed with No Trouble Found. Verizon also submitted results of a study by Drs. Gertner and Bamberger that confirmed that, once trouble reports for which CLECs provided a serial number are excluded, the percentage of CLEC orders with trouble tickets within 30 days is lower than Verizon's retail trouble report rate. Reply Comments at 12-13; L/R Reply ¶ 66 & Att. F; G/B Reply ¶ 25.  Verizon also filed with its application all the evidence that was included in the state record.
∃ Verizon demonstrated that CLECs appeared to be intentionally accepting loops they knew would not	∃ "Our record supports VZ-MA's contention that CLECs sometimes accept loops they know will not	Verizon demonstrated in its Application that, in July, more than 80 percent of CLEC repair requests



<p>support the service they wish to provide and shortly thereafter submitting trouble tickets on these loops. App. B, Tab 520, at 2553-2555 (old numbering).</p>	<p>support the service they intend to offer. . . . the Department does not accord a significant amount of weight to this metric. We will not draw negative performance implications on VZ-MA's part derived from the conduct of some CLECs in playing an angle in the system." DTE Eval. at 313-314.</p> <p>"In questioning VZ-MA's xDSL performance, it appears to the Department that the DOJ is relying upon CLEC allegations that (a) are being made by DTE 99-271 participants for the first time in their FCC comments, or (b) are being made by CLECs that never sought to participate in DTE 99-271. We base our recommendation upon information contained in our record." DTE Reply at 84.</p>	<p>for DSL loops were traced to problems that should have been revealed during acceptance testing or were closed with no trouble found. Verizon stated that the fact that CLECs are submitting trouble reports within short periods after loops are installed – and after they provide a serial number accepting the loops as working – suggests that CLECs re-accepting loops that are not capable of supporting the loops they wish to provide and then submitting 'repair' orders in an effort to force Verizon to rebuild or replace the loop. Application at 25-26; L/R ¶¶ 103-105.</p> <p>Verizon repeated these facts in its Reply Comments. Reply Comments at 12-13; L/R Reply ¶ 66 &amp; Att. F.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>∃ In response to DTE RR-323, VZ studied 594 DSL loop troubles reported in the month of July and determined that the vast majority of those with trouble found were cable issues that, given they were reported so close to the turn-up date, and considering the extremely high percentage of cable troubles, there is very little likelihood that these types of problems had occurred subsequent to installation. See DTE Eval. at App. F (Response to RR-323).</p> <p>∃ CLECs admitted to engaging in this practice:</p> <p>Covad: "The process that Covad experiences, if Bell Atlantic provisions the loop and through Harris testing we discover it has, for example, load coil on it, the way that is dealt with is through a trouble ticket. We have to call and open up a trouble ticket. Bell Atlantic has a commitment to clear a trouble ticket within 24 hours." App. B, Tab 233, at 3247 (new numbering).</p>	<p>∃ "[T]he Department does not agree that a 'trouble' on a loop equals a non-functioning loop, as Covad contends. VZ-MA stated that some CLECs will accept a loop and then open a trouble ticket to have VZ-MA perform work on that loop to meet certain technical specifications (e.g., faster transmission speed)." DTE Reply Eval. at 81.</p> <p>∃ "During a technical session last year, several CLECs acknowledged accepting loops that, absent additional work by VZ-MA, could not support xDSL service (i.e., loops with load coils, excessive bridged tap) and then, immediately thereafter, filing trouble tickets to obtain loop conditioning. . . ." DTE Eval. at 313-314.</p> <p>"While we cannot say – with any assurance – why a CLEC would do so, we can say that ascribing the</p>	

<p>Covad reiterated this claim in July 2000: "The only way we can get a redispach on a bad loop is by accepting a bad loop or a loop that we didn't even get from the RCCC and opening a trouble ticket with the RCMC." App. B, Tab 462, at Szafraniec/Katzman Decl. ¶ 65.</p> <p>Vitts: Our approach has been the same manner with the trouble report. They have two or three days' turnaround time repairing those, depending on how many load coils they have and how much work is involved." App. B, Tab 233, at 3248 (new numbering).</p>	<p>consequence of a CLEC business decision to a purported VZ-MA failure appears unwarranted." DTE Reply at 81.</p> <p>"The Department cannot and will not guess why Covad would accept a loop that does not support the xDSL service it intends to offer over that loop. VZ-MA has posited that CLECs want to "lock in" a loop, a claim we note no CLEC has challenged." DTE Reply at 81.</p> <p>"[S]tatements made by Covad's experts before us contradict the position it has taken before the FCC (i.e., it does not accept loops that would not support the level of xDSL service it intends to offer)." DTE Reply at 83.</p>	
<b>3. Verizon demonstrated that CLECs submit fewer repeat trouble reports than Verizon.</b>		
<p>Under the measurements used in the C2C performance reports, Verizon demonstrated that, in second quarter 2000, CLECs submitted fewer repeat trouble reports than Verizon did for its retail customers. App. B, Tab 423, at Checklist Aff. ¶¶ 144-146; App. B, Tab 446; App. B, Tab 537.</p>	<p>"[W]e note that CLECs submit significantly fewer repeat trouble reports on xDSL loops than does VZ-MA for its retail customers. This metric demonstrates that once CLECs receive loops that are appropriate for xDSL service, they experience fewer problems than VZ-MA." DTE Eval. at 321.</p>	<p>Verizon demonstrated in its Application that, from May through July 2000, the repeat trouble report for CLECs was lower than for retail. G/C Att. E.</p> <p>In response to criticisms of Verizon's loop quality performance and attempts to rely predominately on measures such as trouble reports within 30 days, Verizon again stated these facts. Reply Comments at 13; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<b>C. Maintenance and Repair</b>		
<b>1. Verizon demonstrated that it is providing maintenance in a nondiscriminatory manner</b>		

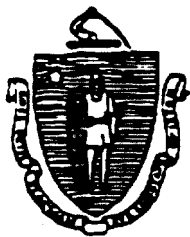
<p>Verizon submitted C2C performance data that its missed repair appointment rate in the second quarter 2000 was low. App. B, Tab 446; App. B, Tab 537.</p> <p>Verizon also submitted carrier-specific missed appointment data for April through June 2000 that demonstrates that missed appointment rates for individual CLECs were low. App. B, Tab 550 (Response to DTE RR 324) (proprietary).</p>	<p>"[W]e find that VZ-MA provides maintenance and repair for CLEC xDSL loops in substantially the same time and manner as it does for retail customers." DTE Eval. at 322</p>	<p>Verizon demonstrated in its Application that the missed repair appointment rate was low and declining, and that, in July 2000, the missed repair appointment rate for CLECs was comparable to the retail rate. G/C Att. E.</p> <p>In response to comments relying predominately on measures such as trouble reports within 30 days, Verizon again noted in its Reply Comments that the missed repair appointment rate for CLECs in July was comparable to the retail rate. Verizon further noted that, in August and September, the rate for CLECs was better than for retail notwithstanding the impact of the August work stoppage. Reply Comments at 14; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Verizon demonstrated that, in second quarter 2000, CLECs submitted fewer repeat trouble reports than Verizon did for its retail customers. App. B, Tab 423, at Checklist Att. ¶¶ 144-146; App. B, Tab 537; App. B, Tab 446.</p>	<p>"[W]e note that CLECs submit significantly fewer repeat trouble reports on xDSL loops than does VZ-MA for its retail customers. This metric demonstrates that once CLECs receive loops that are appropriate for xDSL service, they experience fewer problems than VZ-MA." DTE Eval. at 321.</p>	<p>Verizon demonstrated in its Application that the repeat trouble report for CLECs was lower than for Verizon from May through July. G/C Att. E.</p> <p>In response to criticisms of Verizon's maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon again noted in its reply comments that CLECs submit fewer repeat trouble reports for DSL than Verizon's retail customers. Reply Comments at 13; G/C Reply Att. D.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p><b>2. Verizon demonstrated that it provides maintenance and repair within non-discriminatory intervals.</b></p>		
<p>Verizon demonstrated that Verizon's wholesale and retail maintenance and repair intervals are comparable once numerous adjustments are made to account for the ways in which CLEC behavior affects these intervals. For example, Verizon demonstrated that choosing a Monday appointment</p>	<p>"[W]e find that VZ-MA provides maintenance and repair for CLEC xDSL loops in substantially the same time and manner as it does for retail customers." DTE Eval. at 322</p>	<p>Verizon filed with its application all the evidence that was included in the state record.</p>

<p>when a Saturday appointment is offered adds 46-48 hours to the interval. DTE Eval. Att. F (Verizon Response to DTE RR 323), at 2. Verizon also demonstrated that a main cause of long repairs for CLECs appeared to be the CLEC's acceptance during the provisioning process of loops that cannot support the CLEC's xDSL service. Id. at 3. Verizon explained that the only solution in these instances is to reassign the loop to a new facility, or, if no spare facilities are available, build new facilities, and that these activities are unlike traditional repair work and require considerable time and effort. Id.</p>		
<p>First, Verizon demonstrated that repair intervals are affected by the fact that CLECs intentionally accept loops that do not support the DSL services they want to provide, which forces Verizon to reconstruct or reprovision the loop. App. B, Tab 520, at 2553-2555 (old numbering); DTE Eval. App. F (Verizon Response to RR 323); App. B, Tab 494, at Checklist Att. ¶ 139.</p> <p>Verizon noted that individual CLECs admitted to engaging in this practice. App. B, Tab 520, at 2486-2487 (old numbering); App. B, Tab 494, at Checklist Att. ¶ 139.</p>	<p>"We also find that several of VZ-MA's metrics are affected by the propensity of some CLECs to accept loops they concede are unable to support xDSL service, absent additional work by VZ-MA technicians. . . . Because CLECs are accepting loops that do not support xDSL service, VZ-MA's efforts are much greater than with its retail xDSL service (e.g., involving VZ-MA's construction and engineering crews) and much more time-consuming." DTE Eval. at 320.</p> <p>"Covad fails to make the obvious connection between CLECs accepting loops they know or should know will not support the level of service they intend to offer and what effect that will have on the number of trouble tickets for newly provisioned loops." DTE Reply at 81-82.</p>	<p>As noted above, Verizon demonstrated in its application that, in July, more than 80 percent of CLEC repair requests for DSL loops were traced to problems that should have been revealed during acceptance testing or were closed with no trouble found. Verizon explained that this indicated that CLECs were accepting loops that are not capable of supporting the services they wish to provide and then submitting repair orders. Application at 25-26; L/R ¶¶ 102-105 &amp; Atts. L, M.</p> <p>In response to complaints about Verizon's maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon noted in its Reply Comments that if repair intervals are adjusted to exclude only those requests that are attributable to situations where Verizon is forced to condition and reprovision a loop that was never capable of supporting DSL service, the reported difference between mean time to repair for wholesale and retail is reduced to only nine hours for July and three hours for September. As noted below, Verizon also demonstrated that when the fact that CLECs frequently decline weekend appointments is taken into account, the difference between Verizon's wholesale and retail performance is reduced to only five hours in July</p>

		and is eliminated in September. Reply Comments at 12, 14-15; L/R Reply ¶¶ 71-72 & Att. F; G/B Reply ¶ 25.  Verizon also filed with its application all the evidence that was included in the state record.
<u>Second</u> , Verizon demonstrated that repair intervals are affected by CLECs failure to accept weekend appointments. This occurs because Verizon does not stop the clock over the weekend so postponing the repair appointment extends the interval. App. B, Tab 494, at Checklist A ff. ¶¶ 135-138; DTE Eval. App. F (Response to RR-323); App. B, Tab 565, at 5633 (old numbering).	<p>"We also find that several of VZ-MA's metrics are affected by . . . the preference for Monday and not weekend repair appointments." DTE Eval. at 320.</p> <p>"Other than Rhythms indicating in its FCC comments that it accepts Saturday repair appointments and appointments outside of the standard 9:00 a.m. to 5:00 p.m. period, no CLEC has contested VZ-MA's assertion that CLEC behavior adversely affects several of its maintenance and repair metrics (e.g., declining Saturday appointments, inability to isolate accurately a source of trouble on a loop, accepting loops that require additional work by VZ-MA technicians)." DTE Reply at 86-87.</p> <p>"While VZ-MA did perform a study of the effect of CLEC-rejected weekend appointments for non-xDSL loops, it undertook the same study for just xDSL loops. . . . It is clear to the Department that this VZ-MA study was of just xDSL, not POTS, loops. Later in its comments, the DOJ questions the accuracy of VZ-MA's study because 'CLECs deny that they avoid weekend repair appointments. Rhythms is the only CLEC that has affirmed, albeit in its FCC comments, that it does indeed accept offered weekend repair appointments from VZ-MA. Therefore, we respectfully disagree with the DOJ's use (in footnote 43 of the DOJ Evaluation) of FCC comments filed by Covad and NAS. . . to question the validity of the VZ-MA study.'" DTE Reply at 89-90.</p>	<p>Verizon demonstrated in its application that CLECs frequently choose not to schedule repair appointments at the earliest available date, even though they are offered the same repair intervals (including weekend appointments) as Verizon's retail customers. Application at 20; L/R ¶¶ 73-75; G/C ¶¶ 103-105.</p> <p>In response to criticisms of Verizon's maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon demonstrated that when the propensity of CLECs to decline weekend repair appointments is taken into account, the reported difference for wholesale and retail orders is reduced by an additional four hours. When combined with the effect described above of CLECs accepting loops that do not support xDSL service, this reduces the difference between Verizon's wholesale and retail performance to only five hours in July and eliminates the difference in September. Reply Comments at 15; L/R Reply ¶ 73.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<u>Third</u> , Verizon demonstrated that repair intervals are	"VZ-MA's evidence of having to rely on CLECs to	Verizon demonstrated in its application that CLECs

<p>affected by CLECs' failure to isolate troubles on loops, which causes multiple dispatches and ties up repair personnel. App. B, Tab 445 (Response to Information Request DTE-5-11); App. B, Tab 423, at Checklist Aff. ¶¶ 251-253; App. B, Tab 494, at Checklist Aff. ¶ 150.</p>	<p>direct VZ-MA technicians to the exact location of the trouble is uncontroverted in our record." DTE Eval. at 319.</p> <p>"[W]e find that VZ-MA's maintenance and repair performance is hindered by the CLECs' inability to identify the source of the trouble." DTE Eval. at 320.</p> <p>"A CLEC's inability to locate the source of a problem not only delays repairs for that CLEC but other CLECs, too." DTE Eval. at 320.</p>	<p>frequently submit maintenance and repair requests that do not identify the trouble they are experiencing with the loop, even though they are responsible for doing so. Verizon demonstrated that, from May through July 2000, 59 percent of the maintenance requests for unbundled loops were not properly isolated, and the loop was found to be okay or the problem was traced to customer premises equipment. Verizon further stated that the problem is compounded by the fact that Verizon technicians, in an effort to accommodate CLEC requests, frequently assign expedited repair appointments for CLECs that are shorter than Verizon will assign for itself. Application at 20, L/R ¶¶ 76-78.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Fourth, Verizon demonstrated that the vast majority of trouble tickets that CLECs have submitted on DSL loops were for loops where no trouble was found to exist, which needlessly ties up Verizon technicians in unnecessary appointments. App. B, Tab 445 (Response to Information Request DTE-5-11); App. B, Tab 520, at 4280 (new numbering); App. B, Tab 494, at Checklist Aff. ¶¶ 143-145; DTE Eval. App. F (VZ August 22, 2000 Response to DTE RR 323).</p> <p>Verizon provided carrier-specific data that, of all the troubles submitted by Covad between April 15 and June 15, 2000, nearly 56 percent were closed with No Trouble Found, and that in the majority of cases once Verizon told Covad this it did not issue a further trouble report. App. B, Tab 494, at Checklist Aff. ¶ 144.</p>	<p>"VZ-MA's data indicate that its . . . 'NTF' [No Trouble Found] rates are significantly higher for CLEC than VZ-MA retail customers." DTE Eval at 319-320.</p> <p>"Covad also argues that simply because VZ-MA has not found a problem from some of Covad's repeat trouble tickets does not mean trouble does not exist because it is possible that the repeat trouble ticket is still open. We disagree with this argument. It is clear to us that when VZ-MA states that 29 percent of Covad's repeat trouble tickets '<u>never</u> resulted in a found [VZ-MA] trouble,' it means VZ-MA has closed almost a third of Covad's repeat trouble tickets as NTF." DTE Eval. at 321.</p>	<p>As noted above, Verizon demonstrated in its application and Reply Comments that the vast majority of trouble reports are closed with No Trouble Found. Application at 25-26; L/R ¶¶ 102-105 &amp; Atts. L, M; Reply Comments at 12-14; L/R Reply ¶¶ 71-72 &amp; Att. F; G/B Reply ¶ 25.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
<p>Finally, Verizon demonstrated that its repair intervals are affected by "no access" situations, which also needlessly ties up Verizon technicians</p>	<p>"It is only logical that an unnecessary dispatch means that the VZ-MA technician is unable to attend to a bona fide request trouble that much</p>	<p>Verizon demonstrated in its application that no access situations have a disproportionate impact on DSL loops given that there are often three</p>

<p>who could be completing repairs where they could get access. App. B, Tab 423, at Checklist Aff. ¶ 202; App. B, Tab 520, at 2486, 2498-99, 2522-24 (old numbering).</p>	<p>sooner.” DTE Eval. at 320.</p>	<p>companies involved – Verizon, the CLEC, and the ISP. From April through July, Verizon was unable to gain access to the customer’s premises to complete a repair in connection with nearly 59 percent of CLECs’ complex loop repair requests compared to only 3.4 percent of the maintenance requests from Verizon’s own retail customers. Application at 25; L/R ¶ 106 &amp; Att. N.</p> <p>In response to criticisms of Verizon’s maintenance and repair performance and attempts to rely predominately on repair interval measures, Verizon again pointed to these facts. Reply Comments at 15.</p> <p>Verizon also filed with its application all the evidence that was included in the state record.</p>
---	-----------------------------------	---



COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CONSUMER AFFAIRS AND BUSINESS REGULATION

DEPARTMENT OF  
TELECOMMUNICATIONS & ENERGY  
ONE SOUTH STATION  
BOSTON, MA 02110  
(617) 305-3500

ARGEO. PAUL CELLUCCI  
GOVERNOR

JANE SWIFT  
LIEUTENANT GOVERNOR

JENNIFER DAVIS CAREY  
DIRECTOR OF CONSUMER AFFAIRS  
AND BUSINESS REGULATION

JAMES CONNELLY  
CHAIRMAN  
W. ROBERT KEATING  
COMMISSIONER  
EUGENE J. SULLIVAN, JR.  
COMMISSIONER  
PAUL B. VASINGTON  
COMMISSIONER  
DEIRDRE K. MANNING  
COMMISSIONER

1 December 2000

William E. Kennard, Chairman  
Susan Ness, Commissioner  
Harold W. Furchtgott-Roth, Commissioner  
Michael K. Powell, Commissioner  
Gloria Tristani, Commissioner  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: Application by Verizon New England for Authorization under § 271  
of the Telecommunications Act of 1996, CC Docket No. 00-176

Dear Chairman Kennard and Commissioners Ness, Furchtgott-Roth, Powell, and Tristani:

In less than three weeks, the Federal Communications Commission ("Commission") will rule on Verizon New England's § 271 application. That ruling will have a searching effect on Massachusetts consumers and on the telecommunications services available to them. Like the New York and Texas public service commissions before it, the Massachusetts Department of Telecommunications and Energy ("Department") awaits the Commission's ruling with keen interest. I dare say that the public service commissions in the other 47 states also will be avidly interested in how the Commission views the consultative evaluation that the Massachusetts Department filed with the FCC on October 16. I say so, because I know how eagerly our Department awaited the Commission's New York ruling last December as the first complete statement of what constituted an acceptable application. Our Department strictly followed your guidance in the New York ruling as we conducted our own investigation.

In the five years since the 1996 Act was passed, our Department has worked hard to put the Act's terms into effect—through case after case and arbitration after arbitration. Indeed, even a full decade before the 1996 Act, the Department had already, on its own, adopted a clear policy firmly in favor of intra-LATA competition. Intra-LATA Competition Investigation, D.P.U. 1731 (1985). As a result of the Department's initiative and of its unremitting regulatory pressure for

Fax: (617) 345-9102  
[www.magnet.state.ma.us/dpu/](http://www.magnet.state.ma.us/dpu/)



the past fifteen years, Massachusetts today enjoys the benefits of one of the most competitive telecommunications markets in the United States.

The five years since passage of the 1996 Act have culminated in the Department's investigation—over the past eighteen months—of Verizon's compliance with the § 271 14-point checklist. Because of the importance that the 1996 Act and the Commission accord to a State's consultative role under § 271, the Department devoted extensive, State-funded resources to this effort. Both the Department's evaluation of Verizon's application and its recommendation of Commission approval rest on an extensive record. In the creation of that record, the Department accorded all carriers and any other interested person a full and fair opportunity to participate.

The Department has, since its October 16 report, reviewed all filings made with the FCC. Nothing presented since then changes the Department's conclusions and recommendations. The Department fully considered and addressed all matters presented to it during its thorough investigation. The record before this Department plainly warranted our findings and recommendations; and, I respectfully submit, the record now before the FCC also presents a clear and compelling case for approval.

A word about DSL: I gather from Department interchanges with the FCC that some lingering concern may remain about DSL performance. Let me note that, contrary to what may have been alleged in ex partes, CLECs had full opportunity to present their assertions of fact and their arguments to the Department. We actively solicited their views. Moreover, CLECs had the unfettered opportunity to seek—and had, in fact—any and all relevant information necessary to make their cases before the Department closed its investigative record to draft its evaluation. The Department evaluated every DSL issue raised by any participant in its investigation. If matters were withheld from being raised in our proceeding, only to be later raised with the FCC as unresolved, then Massachusetts, like any other state, must wonder what its § 271 consultative role is all about.

Furthermore, "metrics"—though very useful as a regulatory tool, especially in monitoring the future state of the market and protecting against backsliding—are not *themselves* what § 271 is about. *Actual* performance is the centerpiece of the enquiry. The Department would never disprize the importance of clear metrics as enforcement or evaluative tools, but we would differentiate between the measuring tools and the reality they measure—between, if you will, the thermometer and the ambient temperature. Our investigation shows that the ambient temperature of DSL lies in an acceptable range of parity, even though the thermometer may need recalibration. And so, I respectfully urge that you not heed counsel that would have you mistake the one for other.

Where DSL metrics seemed at first look to indicate disparity rather than parity, the Department looked deeper. We asked whether, or not, the metrics themselves captured the reality of actual performance. When we examined all the underlying facts (including CLEC

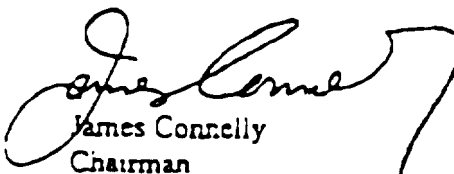
actions), any question of discriminatory treatment or of lack of true parity was resolved. Mere appearance yielded to fact. These deeper investigations by the Department and the conclusions we reached are spread on the record before you.

Finally on this point, it appears that some would argue that Commission conclusions should be based on the anomalous period in late summer when Verizon workers were out on strike. I would urge the Commission to be intensely skeptical of any argument that the stresses and strains on any business trying to serve consumers during a strike can really be said to represent the actual underlying market. This is a premise divorced from the reality of the world as it is lived.

The telephone was invented in Boston in 1875, and the Department has regulated Verizon and its predecessors for over 100 years. Whatever the outcome of the § 271 application, the Department is not going away. It will continue to promote the policy it adopted in 1985—namely, to promote intra-LATA competition in order to benefit Massachusetts consumers and the State's economy. DSL is a vital feature of that promotional effort. As I noted earlier, improved DSL metrics will be a central part of that work. That is why we have expressly and directly linked the Massachusetts PAP's enforcement measures to the continuing industry collaborative in New York. The Department has committed—and I repeat that commitment here and now—to adopt any and all enhanced New York metrics as Massachusetts' own as soon as they are issued. Like New York, Massachusetts is part of the former NYNEX system; and so it is administratively efficient to follow New York's lead in this matter. *But*—and this is an important additional pledge—the Department has further committed itself to develop its own enhanced DSL metrics and to amend our PAP accordingly, should the New York collaborative prove dilatory. You have my and my colleagues' word on that.

Let me close by thanking the FCC for the cordial cooperation the Department has enjoyed over this long process. I hope and trust that, in rendering your paramount statutory judgment on this application, you will be able to give due deference to the fact-finding and to the hard and good-faith work that the Massachusetts Department of Telecommunications and Energy has labored to put before you. I do not envy your task of doing in a bare 90 days what we—with a prior knowledge of our market stretching back a century—have taken 18 months to do. Thank you for your attention to the views expressed here and in the Department's earlier filings.

Very truly yours,



James Connelly  
Chairman



OFFICE (617) 328-9600  
TAPE NUMBER (617) 328-9600  
FAX (617) 328-8094  
WEB SITE: www:ibew2222.org

Local No. 2222  
AFL-CIO

# International Brotherhood of Electrical Workers

EDWARD T. FITZPATRICK  
PRESIDENT

PAUL S. JACKSON  
RECORDING SECRETARY

MYLES J. CALVEY  
BUS. MGR / FIN. SEC.

GERALD P. LEARY, JR.  
VICE PRESIDENT

JOHN J. BROMLEY  
TREASURER

November 30, 2000

Senator John Kerry  
One Bowdoin Square  
Boston, MA 02114

Dear Senator Kerry,

I am writing to gain your support for the Verizon Corporation's entry into the Massachusetts Long Distance market.

At the present time, Verizon is waiting for approval from the Federal Communications Commission (F.C.C.). This decision is due by Thursday, December 21, 2000.

For the welfare of my Union members, it is important that Verizon get that commitment from the F.C.C. In Massachusetts, customers are leaving the Union-built network of Verizon because of the bundled services of our non-union competitors. Without the option of long distance service, customers are choosing the "one-stop" shopping route to get their telephone, cable t.v., long distance and Internet from a list of companies that does not include Verizon.

As a labor leader, losing customers affects my ability to obtain a collective bargaining agreement and more importantly keeping my members at work.

I would appreciate you using your influence with the F.C.C. to support this Local and Verizon Corporation in helping to obtain long distance services.

Thank You for your continuous support of organized labor. If you have any questions, please call me at: 617-328-9600.

Sincerely,  
*Myles Calvey*  
Myles Calvey  
Business Manager  
Local 2222, I.B.E.W.